

13.02 PLANNING PROPOSAL – 2519 O'CONNELL ROAD

File No: PR186-2519

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History:

Council at its Ordinary Meeting on 21 November 2017 resolved:

“That the proposal be deferred until an onsite meeting can be held in the New Year.”

Further to that resolution a site inspection/meeting was arranged and conducted at 4pm 23 January 2018, with Councillors Sajowitz, Kellam, Lyon, McCarthy, Capel, McKechnie, Cameron Hill (proponent), David Walker (Geolyse) and Shane Wilson Planning & Development Director present for the inspection/meeting.

The unchanged report is now referred back to Council for consideration.

Summary:

Council is been in receipt of a Planning Proposal from 'Geolyse' for an amendment to the Oberon Local Environmental Plan 2013. The Planning Proposal has been submitted to Oberon Council on behalf of Belvoir Hill Pastoral Company Pty Ltd in May 2017. The subject site is land located at 2519 O'Connell Road, O'Connell which is to the south of the township of O'Connell and 18km south-east of Bathurst. The Planning proposal is for a rezoning of the subject site from RU1 Primary Production Zone to R5 Large Lot Residential Zone with a 10ha minimum lot size. This rezoning would facilitate a potential 17-lot subdivision on the subject site.

Oberon Council officer's assessed the planning proposal in August 2017 and identified the following reasons on which not to recommend support to the planning proposal at that time:

- *Does not accord with the Oberon Land Use Strategy criteria in identifying future rural lifestyle living sites as O'Connell is not a primary or secondary service centre.*
- *The additional lot supply in O'Connell may generate disproportionate demands for services and infrastructure in the village of O'Connell which is currently not zoned to allow commercial, retail or community facilities.*
- *There has been no evidence provided within the Planning Proposal that there is less than 10 years supply of rural lifestyle living sites and/or a lack of supply of rural lifestyle living sites in O'Connell or Oberon Council.*
- *In accordance with Section 117 Direction 1.2 Rural Lands, there is no compelling reason that this agricultural land should be rezoned to lifestyle living lots.*
- *Is not supported by SEPP (Rural Lands) 2008, as the Planning Proposal has failed to provide evidence that additional R5 zoned land would contribute to the social and economic welfare of the O'Connell community.*

Despite not supporting the planning proposal the Council officer's assessment of August 2017 stated:

“To a certain extent there is some planning merit to the Planning Proposal as the subject site is located between two areas of R5 zoned land and in the future there may be some land use conflict between the R5 and the subject sites RU1 zoning. The land also has manageable constraints, is close to the centre of O'Connell and is potentially the most suitable RU1 land in the O'Connell surrounds suited for large lot living.”

Initial advice on the draft report was provided to 'Geolyse' for their consideration.

'Geolyse' have since responded to the Council officer's recommendation with 'Further Information' dated 5 October 2017, which is affirmation of the strategic merit of the planning proposal. This report has subsequently been prepared in response to the Geolyse 'Further Information'.

Recommendation:

That:

1. Council do not support the Planning Proposal or the request for gateway determination for the following reasons.
 - The additional rural residential land in O'Connell will result in a disproportionate demand for services and infrastructure in O'Connell which is currently not zoned to allow commercial or retail uses.
 - The additional rural residential land in O'Connell is not supporting the town of Oberon which is nominated as the primary service centre and has significant amounts of R5 land available in conjunction with existing services and/or the potential to provide these services.
 - This planning proposal is inconsistent with the Rural Planning Principles identified in the State Environmental Planning Policy (Rural Lands) 2008 specifically:
 - *The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas.*
 - *Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,*
 - *The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,*
2. Council authorise the General Manager to inform the proponent that Oberon Council do not support the planning proposal.
3. A division be called in accordance with Section 375A of The Local Government Act 1993.

Comment:

The proponent has stated in their further information letter that additional rural residential living in O'Connell is generally consistent with eight of the nine criteria identified in the Oberon Land Use Strategy (LUS).

The one criteria that Council officer's identified as not being compliant was that ***new rural residential development should have reasonable proximity to one of the LGA's primary or secondary service centers***, and that O'Connell is not identified as a primary or secondary service centre. The proponent has stated that the term primary or secondary service centre is not defined in the LUS however in early iterations of the LUS, Oberon is nominated as the primary service centre and Black Springs and Burruga are the secondary service centers. Essentially a secondary service centre was defined as being between 30-500 households and providing services and a focus for a district sub-catchment. An explanation in the Oberon Land Use Strategy (September 2010, p173) was that O'Connell was not included in the secondary service centers because it *considered that any substantial re-development (in O'Connell) will detract from the creation of a critical mass for the higher order villages and towns.*

Although O'Connell still has a lack of services for a district sub-catchment in 2017, it definitely has greater than 30 households and it could be argued that it is now a secondary centre. The proponent is correct when it stated in their further information, that O'Connell not being a

secondary centre did not prevent Council from rezoning land directly around the O'Connell village via the adoption of the LUS in 2013. In isolation an additional 17 lots as a result of this planning proposal and subdivision seems relatively docile however the cumulative impact of the combined R5 zoned land in O'Connell is likely to impact on the growth of the primary service centre of Oberon.

Irrespective of whether O'Connell is a secondary service centre, the Council officer's report stated ***the additional lot supply in O'Connell may generate disproportionate demands for services and infrastructure in the village of O'Connell which is currently not zoned to allow commercial, retail or community facilities.***

The proponent has tried to argue that the current RU1 zoning is satisfactory with various uses permitted with consent including a Highway Service Centre. The O'Connell Road is not a highway so this is a moot point. The prohibition of commercial type services in the RU1 zoning of O'Connell is a limitation for the expansion of O'Connell. As population grows there will be a demand for Council to provide services to support the community and to facilitate uses that are currently prohibited. This lack of a village or local centre zone has been recently identified in the community and as the town grows and social disadvantage arises due to the inaccessibility to basic services, Council may be forced to respond accordingly.

The Council officer's assessment requested a land analysis and stated that crucial parts of the Oberon Land Residential Land Analysis prepared by WRI were incorrect, particularly the claim that there had been an 85.5% increase in population in O'Connell between 2006 and 2011. This error has not been acknowledged by the proponent in the further information and they state that O'Connell has had a 6% growth year on year in the 10 year period 2006-2016.

The proponent's further information provided a supply analysis of the existing R5 land in O'Connell and came to the conclusion that there is an estimated supply of 65 R5 zoned lots in O'Connell (18 vacant but subdivided and 47 potential lots). Although the assumptions that the Council uses is different, Council officers have determined (as of October 2017) that there are 17 vacant but subdivided lots and 49 potential R5 lots available in O'Connell. The supply of R5 lots in O'Connell is therefore estimated to be 65-66 lots.

In terms of demand the proponent states that with a consistent 6% growth in O'Connell, this represents 3.25 years supply or with a moderate growth rate of 2.5% this is 13 years supply of R5 land available in O'Connell. Council's own research into demand shows that there have been 14 approved dwellings in the O'Connell R5 zone over the past 3 years. If this trend is to continue then there is 13 years supply of R5 land left in O'Connell. Therefore the proponents moderate demand growth reveals similar findings to Council.

The proponent considers this to be substantial evidence to rezone the subject land and states:

Additionally, the form of lifestyle allotments offered around the O'Connell village are very specific in terms of size and provision of on-site services. Other lifestyle allotment opportunities within the Oberon LGA are smaller, with minimum lot sizes on offer of 2 hectares and 5 hectares. The larger lot sizes offered around O'Connell are not offered elsewhere in the LGA and it is understood that it is this form of uniqueness, together with the character of the locality that contributes to their appeal.

Because of this apparent unique offering, the proponent avoids an in-depth discussion of the availability of R5 land in the entire Oberon Local Government area. Analysis of the Oberon town area shows in excess of 550ha of R5 zoned land that has yet to be subdivided. With a reduction of land for infrastructure provision (for e.g. roads) and with the land having a mixture of 2 to 5ha minimum lot sizes, there is in excess of 200 lots in the Oberon R5 zoned land which is yet to be subdivided. There are also dozens of R5 zoned lots that have been subdivided but are still vacant.

The addition of R5 land was identified in the LUS as a way to prevent rural land fragmentation and as a means to attract growth to the town of Oberon. Adding to the supply of large lot living in O'Connell is not supporting the growth of the town of Oberon which has the capacity to provide the necessary services to its residents.

The Council officer's recommendation stated that ***In accordance with Section 117 Direction 1.2 Rural Lands, there is no compelling reason that this agricultural land should be rezoned to lifestyle living lots.*** The proponent suggested that the compelling reason for the rezoning is that the land is suitable for large lot living and adheres to the criteria of the LUS. They also state that not providing R5 land could lead to pressures of land releases in other RU1 land and that the prevention of the land use conflict now (between rural residential land and primary production land) could solve the problem in the future. This shows a lack of respect and understanding of the State Planning Policy (Rural Lands) 2008 which is fundamentally there to protect rural land for rural and related purposes.

Three of the rural planning principles of the State Planning Policy (Rural Lands) 2008 are:

The promotion and protection of opportunities for current and potential productive and sustainable economic activities in rural areas; and

Recognition of the significance of rural land uses to the State and rural communities, including the social and economic benefits of rural land use and development,

The provision of opportunities for rural lifestyle, settlement and housing that contribute to the social and economic welfare of rural communities,

The proponent has not provided any substantial case in favour of these inconsistencies with the State Planning Policy (Rural Lands) 2008. It is the view of the Council officer that the removal of 170ha of primary productive land is premature at his stage when there is no obvious need and no obvious encroachments on the owners land. There is also no tangible economic or social gain for the community and therefore it is considered that this planning proposal and subdivision would be a net loss for the O'Connell and Oberon Council at this time.

Based on the assessment detailed within this report, it is recommended that Council not support the planning proposal or the request for gateway determination. The proponent then has the opportunity to request a 'pre-gateway review' by a Planning Panel.

Notes: